

REMARKS

Claims 16, 18, 19, 22 and 24-35 are pending. This application has been withdrawn from appeal, apparently based on recognition that the various combinations of art which have been applied to reject the claim 16 have been deficient. However, the pending Office Communication fails to address the arguments of record regarding independent claims 32 and 35. In fact, the Examiner has upheld those rejections and has failed to respond to deficiencies made of record in the Applicant's previous response. Now the Examiner presents new grounds of rejection for claim 16. Applicant submits this amendment in order to address all of the new grounds of rejection with finality and assure that this application is in condition for allowance.

At the outset there is no basis for the new rejection of claim 16 under Section 112 first paragraph. After having gone through multiple examinations it is mistake to now contend that the claim fails to comply with the written description. Contrary to the statement made at page 2 of the Office Communication, the detailed description does provide full support for a first enclosure base body comprising "a first component of the first enclosure base body formed of a relatively hard material and a second component of the first enclosure base body formed of relatively soft material ..." See Figure 1 as well as page 10, lines 15-23 and note reference to hard component 8 as well as soft component 4 on edge 3. Removal of the first rejection of claim 16 under Section 112 is in order.

Claim 16 has been amended to overcome the rejection under Section 112 second paragraph. It is now clear from the claim that the applicant's use of the term "relatively" is proper as a comparison of the two claimed materials, which are relatively harder or softer when compared to each other.

The new first rejection of claim 18 under Section 112 is not understood, since the claim does not include the term "fourth recess", which was removed when that claim was amended after the final rejection to recite:

"a recess formed along the outer periphery of the other one of the first component of the first enclosure base body and the second enclosure base body."

The recess that is included in claim 18 is clearly defined by the claim and is supported in the specification in such a way as to reasonably convey it to one skilled in the art. Withdrawal of the rejection of claim 18 under Section 112 second paragraph is requested.

Independent claims 16 and 35 and dependent claims 19, 27, and 29-31 were rejected under Section 103 over Nuovo (U.S. 2004/0102230) in view of Leurs (U.S. 2006/0097376). Apparently the stated rejection of claim 35 is in error because there is no argument on this basis and a separate rejection is made using a different combination at pages 19-21 of the Office Action. That is, both independent claim 32 and independent claim 35 were rejected under Section 103 over Nuovo (U.S. 2004/0102230) in view of Gahl (U.S. 2004/0082370). Other dependent claims were rejected under Section 103 based on Nuovo in view of Mischenko (U.S. No. 4,711,361), Gahl (U.S. 2004/0082370), Montminy (U.S. 2004/0211668) or (Pontoppidan). Full argument provided in the appeal brief remains applicable to many if not all of the grounds of rejection. The following argument addresses independent claim 16 (amended) and independent claims 32 and 35. Reconsideration is requested for the following reasons.

Claim 16 Is Allowable

Claim 16 is amended to more clearly present the novel subject matter. Nonetheless applicants traverse the rejection of claim 16 as examined because the rejection does not, and cannot, identify in the prior art the components and structural arrangements recited in the claim. For example, at page 5 of the Office Action the rejection first alludes to both the Nuovo and Luers references and then identifies components in the Nuovo reference as though these would comport with the recited first enclosure base body. Specifically, the rejection references, as the claimed relatively hard first base body component, the Perspex layer 37 and, as the relatively soft second component of the first enclosure base body, a rear face 21 (actually a back cover). However, claim 16 requires the arrangement wherein the second component is formed against the hard material of the first component. It is apparent from Figures 22 that, with the intervening material 19, the rear face of Nuovo is not formed against the Perspex layer 37.

Claim 16 is further amended to now require, not only that the first enclosure base body and the second enclosure base body make contact, but with "the first edge and the second edge butting against one another ..." As shown for an embodiment of the invention in applicant's figures 7 and 8, this arrangement results in embodiments wherein

a sealing first flange (i.e., the first edge) [is] configured to make contact with the second edge, [wherein] said sealing first flange [is] made of an elastically deformable material

However, the edge 320 identified in the rejection as comporting with the recited "first edge" is part of the Perspex layer 37 and therefore clearly not disclosed as " an elastically deformable material ..."

In addition to the above, claim 16 now also requires that

"one of the first component of the first enclosure base body and the second enclosure base body includes a sealing channel comprising a second flange positioned along an outer periphery thereof and configured to extend into a recess formed along the outer periphery of the other enclosure base body."

None of the deficiencies cited with regard to the Nuovo reference are compensated by the Leurs reference. It is respectfully submitted that no combination of the prior art can be assembled, even in hindsight, to meet the terms of claim 16. For these reasons allowance of claim 16 and all claims which depend therefrom is requested.

Claim 32 Is Allowable

Reconsideration of the rejection of claim 32 over Nuovo in view of Gahl is requested. The Examiner has not carried the burden to reject this claim and the rejection still contains numerous deficiencies. First, the argument begins by stating application of Nuovo as applied to claims 16 and 31 and further in view of Gaul. This is not a proper basis for the Examiner to avoid reading the claim 32 on the Nuovo reference and the Gaul reference. That is, claim 32 is an independent claim defining different subject matter from claims 16 and 31 such that little or nothing can be inferred by a statement the rejection applies Nuovo "as applied to claims 16 and 31." The Examiner is obliged to map each element of claim 32 to the prior art.

Second, the present non-final rejection of independent claim 32 appears to be on substantially the same basis as the earlier rejection which applicant has appealed. In fact the applicant has repeatedly requested that the Examiner address the deficiencies which have been brought to the Examiner's attention at least twice. For example, **it still appears that the**

Examiner confuses "electrical" material with "elastic" material. Consequently it still appears that the rejection is premised on an incorrect conclusion: that the Gahl reference discloses "injecting a soft component forming an elastic seal onto the hard component ..." It was brought to the Examiner's attention (see the response filed 12 February 2007 as well as the Appeal Brief) that the reference does not disclose such subject matter. Specifically, the first final office action and the present Office Action both characterize the Gahl reference as disclosing an elastic material while the reference actually describes "**electrical material**." Moreover, the citation in the Gahl reference (par. 0013) does not even appear to suggest any difference in hardness such that either the first component or the second component would be characterized as a hard component or a soft component. For these reasons, claim 32 and the claims which depend therefrom are each distinct and non-obvious over any combination of the cited art.

The Examiner's new remarks (see page 16 of the Office Action) are not understood as relevant to that which is claimed. The rejection relies upon Nuovo for disclosing hard components and soft components. Specifically, the rejection again refers to Pars [0092] and [0106] of Nuovo, but the passages which the Examiner cites reference sapphire, which is a naturally occurring stone. The mere fact that Nuovo discloses some components as plastic does not provide the Examiner with license to replace the component described as sapphire with an injection molded material. The Nuovo reference would have to be reconstructed to meet the terms of claim 32. Moreover, the Nuovo reference teaches use of ruby, e.g., sapphire, because it is "an attractive jewel" and it "will provide greater accuracy of fit of the key in the device ...". It remains incorrect to reconstruct the disclosure in Nuovo of sapphire material to meet the terms of this claim, e.g., a base body made from a hard plastic, because sapphire is not made with an injection molding process.

The removal of this rejection is required. The Examiner has failed to fully respond to the deficiencies of the rejection and had not presented any new argument. Claim 32 and the claims which depend therefrom should be allowed.

Claim 35 Is Allowable

Independent claim 35 is, once more, rejected based on Nuovo in view of Gaul on the same basis as presented in the final rejection from which applicant has appealed. The rejection of independent claim 35 is still not understood as having any merit. The Examiner has failed to

respond to the deficiencies noted in both the Appeal Brief and the amendment filed under Rule 116 (27 February 2008). For example, applicant claims “a flange, formed along and spaced apart from the edge perimeter” and the claim also requires that

... the flange comprises an elastically deformable material, wherein the base body is made from a hard plastic and the flange is made from a softer plastic compared to the hard plastic...

The Examiner’s combination of Nuovo and Gahl lacks features called out in claim 35. The rejection does not and cannot identify all of the features of Nuovo and Gahl which the Examiner relies upon. The Examiner again references paragraph [0098] of Nuovo (extruded silicone sealant 69) in lieu of a flange comprising elastically deformable material. Nuovo does not disclose the claimed flange. In response to applicant’s request that the Examiner explain exactly how the references are being applied, the Examiner has again provided a response without support, suggesting at page 18 of the Final Office Action that “edges of the front face take the form of a flange ...” At best this is inconsistent with the Examiner’s acknowledgement that sapphire is a brittle material and there is no flange.

In summary, instead of merely requiring an edge perimeter adapted to contact a mating surface, claim 35 requires

“a flange, formed along and spaced apart from the edge perimeter, extending in a direction to press against the mating surface when contact with the mating surface is made ...”

Neither the Nuovo reference nor the Gahl reference teaches or suggests this structure. Moreover, for reasons recited above with regard to claim 32, the Gahl reference does not teach or suggest a

“base body ... made from a hard plastic and ... [a] flange ... made from a softer plastic compared to the hard plastic, and wherein the base body and the flange form an integral part and are made by using a two-color injection molding process.”

Also, with regard to claim 35, it would be incorrect to rely upon disclosure in Nuovo of sapphire material to meet the terms of this claim, e.g., a base body made from a hard plastic, because sapphire is not made with an injection molding process. The rejection of claim 35 also fails to account for the fact (as noted above for the rejection of claim 32)

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Atty. Doc. No. 2002P08101WOUS

that characterize the Gahl reference describes “**electrical material**” and does not disclose elastic material.

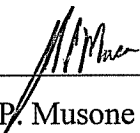
Conclusion

It is again respectfully submitted that no combination of the art of record suggests the claimed invention. In view of the amendments the application is in better condition for allowance. Also, in view of the argument now presented, each of the claims is allowable over the prior art and the Examiner is asked to pass this application to issuance.

The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: 12/31/08

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